

## Message Text

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PAGE 01 TAIPEI 05192 070825Z  
ACTION EB-08

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FM AMEMBASSY TAIPEI  
TO SECSTATE WASHDC 8487  
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E.O. 11652: N/A  
TAGS: EIND, TW  
SUBJECT: NEW PATENT LAW FOR TAIWAN

REF: (A) STATE 190731 (B) TAIPEI 2314

1. EMBASSY UNABLE TO LOCATE ENGLISH VERSION OF REVISION  
OF PATENT LAW NOW UNDER CONSIDERATION. EXECUTIVE YUAN  
RECENTLY APPROVED DRAFT OF REVISED PATENT LAW WHICH  
WILL SHORTLY BE SUBMITTED TO LEGISLATIVE YUAN.

2. LOCAL LAW FIRM HAS PROVIDED EMBASSY WITH FOLLOWING  
HIGHLIGHTS OF PROVISIONS OF PROPOSED LEGISLATION:

- CHANGES THE ESSENTIAL REQUIREMENT FOR A PATENTABLE  
NEW INVENTION FROM "HAVING INDUSTRIAL VALUE" TO  
"BEING CAPABLE OF INDUSTRIAL UTILIZATION". (ARTICLE 1)
- ABOLISHES THE STATUTORY ONE-YEAR NOVELTY REQUIREMENT  
SET FORTH IN ARTICLE 2(3) AND 96(3) WHICH PROHIBITS  
PATENT APPLICATIONS IN THE REPUBLIC OF  
CHINA FOR ANY INVENTION OR ANY UTILITY MODEL FOR  
WHICH PATENT APPLICATION HAS BEEN FILED WITH A  
FOREIGN GOVERNMENT FOR OVER A YEAR, AND ADDS A  
NEW RESTRICTION THAT NEW INVENTIONS AND NEW UTILITY

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MODELS ARE UNPATENTABLE IF THEY "MAKE USE OF  
CONVENTIONAL TECHNOLOGY EXISTING PRIOR TO THE PATENTIO AND THE US  
A  
GE IS WELL KNOWN AND OBVIOUS."

- CHANGES THE COMMENCEMENT DATE OF PATENT RIGHTS GRANTED  
TO A PATENT APPLICATION FROM "ITS FILING DATE" TO

"THE DATE OF PUBLICATION: AFTER ITS APPROVAL.

-- SHORTENS THE PERIOD FOR ANY PERSON OR INTERESTED PARTY TO INSTITUTE OPPOSITION PROCEEDINGS AT THE PATENT OFFICE AGAINST A PUBLISHED PATENT APPLICATION FROM "SIX MONTHS" AS THE DATE OF PUBLICATION.

-- ADDS THE RESTRICT MPORTED ARTICLES WHICH ARE PRODUCED UNDER A LICENCE AGREEMENT OR DEED OF ASSIGNMENT MADE WITH THE ORIGINAL INVENTOR(S)" CANNOT ENJOY THE PATENT PROTECTION PROVIDED IN ARTICLE 42.

-- DELETES THE PROVISIONS IN ARTICLE 67 THAT "THE PATENT OFFICE MAY ON ITS OWN INIATIVE REVOKE A PATENT IF, IN THE ABSENCE OF PROPER REASONS, THE PATENTED INVENTION HAS NOT BEEN PUT INTO PRACTICE OR HAS NOT BEEN PROPERLY PUT INTO PRACTICE IN THIS COUNTRY AFTER THE EXPIRATION OF THREE YEARS FROM THE DATE OF THE GRANT OF THE PATENT".

-- DELETES FROM ARTICLE (68(A) THE SITUATION THAT "IF, WITHOUT JUSTIFIABLE CAUSE, THE PATENTED INVENTION, WHICH IS FIT FOR USE IN THIS COUNTRY, HAS NOT BEEN UTILIZED FOR MASS PRODUCTION" AS A CASE IN WHICH AN INVENTIPZE DEEMED NOT HAVING BEEN PROPERLY

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PUT INTO PRACTICE.

-- STIPULATES THAT THE GOVERNMENT FEES REQUIRED TO BE PAID FOR PATENT APPLICATIONS AND PATENTS SHALL INCLUDE APPLICATION FEE, PUBLICATION FEE, PATENT CERTIFICATE FEE, AND ANNUITIES, THE EXACT AMOUNTS OF WHICH ARE TO BE DECIDED BY THE EXECUTIVE YUAN.

-- RAISES THE FINES PRESCRIBED IN THE SECTION OF PENAL PROVISIONS IN ORDER TO STRENGTHEN THE PATENT PROTECTION.

-- DELETES ARTICLE 131 WHICH STIPULATES THAT "ANY PATENT RIGHT LAWFULLY ACQUIRED THE ENFORCEMENT OF THIS LAW SHALL BE DEEMED AS A PATENT RIGHT ACQUIRED UNDER THE PROVISIONS OF THIS LAW, PROVIDED THAT SUCH PATENT RIGHT SHALL BE VALID ONLY FOR THE TERM ORIGINALLY APPROVED". UNGER

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**Subject:** NEW PATENT LAW FOR TAIWAN  
**TAGS:** EIND, TW  
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